

## REMARKS

### Drawings

The new drawings have been relabelled to more clearly differentiate the Figures, as requested by the Examiner. No amendments have been made to the content of the drawings.

### Claims

Claims 1, 10, 19 and 28 have been amended. The amended claims more clearly define the invention for which protection is sought.

Claim 8 has been amended to remove an indefiniteness therein.

### Claim Rejections – 35 U.S.C. 102

#### Byram (US patent no. 5,464,010)

The examiner has rejected claims 1-3, 5, 10-12, 14, 19-21, 23 and 28, under 35 U.S.C. 102 as being anticipated by Byram.

#### Claims 1 and 10

Claims 1 and 10 have been amended to include, as a positive limitation in the method claimed, the provision of an oxygen mask. This feature of the invention claimed is not shown or mentioned in Byram, which relates entirely to respirators and makes no mention of oxygen masks.

The Examiner has equated the respirator of Byram with the oxygen mask that is now a positive limitation of the method claimed. The Applicant submits that the respirator of Byram cannot properly be equated with the oxygen mask claimed in the present invention. A respirator and an oxygen mask have a different function, and although a respirator may be adapted to accommodate an oxygen source, it is still a respirator, and not an oxygen mask. The Applicant submits that Byram does not disclose oxygen masks.

Further, claims 1 and 10 have been amended to include, as a positive limitation in the method claimed, the provision of an oxygen mask that comprises an adaptor for receiving oxygen supply tubing. This feature of the invention claimed is not shown or mentioned in Byram, which relates entirely to respirators and makes no mention of the delivery of oxygen. The Applicant submits that this added limitation is not found in Byram.

Byram does not mention oxygen masks, but rather is directed exclusively towards respirators. A "respirator" is an apparatus worn over the face to prevent the breathing in of dust, smoke, or other harmful substances, or an apparatus used to provide artificial respiration. Byram states that there are two important reasons for wearing a respirator: to protect the respiratory tract from contaminants in the environment, or to protect others from contaminants exhaled by the wearer of the respirator. Had Byram intended to include oxygen masks within the scope of his invention, he could have done so, as oxygen masks were well known at that time that the application was filed. The meaning of this reference to someone of ordinary skill in the art is clear and unambiguous- it relates to respirators.

An oxygen mask is designed to deliver oxygen to the wearer of the mask, and includes an adaptor for the attachment of tubing that is connected to a supply of oxygen. Such a mask is shown in the Figures of the present application. Byram makes no mention of the delivery of oxygen to the wearer of the respirator.

Byram is directed towards providing a new respirator and strap combination that can be used to conveniently dispose the respirator beneath a wearer's chin, when it is not in use. The problem being addressed by Byram relates to the fact that people who wear respirators repeatedly remove and replace the respirator over their mouth and nose. Byram provides a means of retaining a respirator in a convenient location, when removed from a wearer's face, so that it can be quickly and easily retrieved and returned to its position over the wearer's mouth and nose.

Byram is not concerned with and does not mention the problem of ear abrasion, which results from the chronic, long-term and continuous wearing of an oxygen mask, as

occurs in persons who wear oxygen masks for extended periods of time, often in a hospital setting.

The Applicant submits that the added limitations to claims 1 and 10 render these claims novel over Byram. As claims 2, 3, 5, 11, 12 and 14 depend either directly or indirectly from claims 1 and 10, the Applicant submits that these claims are likewise novel over Byram. Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 102 is respectfully requested.

#### Claims 19 and 28

The Applicant has amended claims 19 and 28 to add the limitation that the oxygen mask comprises an adaptor for receiving oxygen supply tubing.

The Examiner has equated the respirator of Byram with the oxygen mask claimed in the present invention. For the reasons stated above, the Applicant submits that the respirator of Byram cannot properly be equated with the oxygen mask claimed in the present invention.

Further, the Applicant submits that the added limitation in claims 19 and 28, is not found in Byram.

The Applicant submits that because Byram does not disclose an oxygen mask, or the added limitation to claims 19 and 28, that these claims are novel over Byram. As claims 20, 21 and 23 depend either directly or indirectly from claim 19, the Applicant submits that these claims are likewise novel over Byram. Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 102 is respectfully requested.

**Claim Rejections – 35 U.S.C. 103**

**Byram and Darrow**

The Examiner has rejected claims 7, 16, 25 and 29 as being unpatentable over Byram in view of Darrow, because Darrow discloses a transverse element (crown strap).

The limitations added to claims 1, 10, 19 and 28 by the amendments herein are incorporated into these claims. Therefore, the Applicant submits that in view of these added limitations, the rejection is no longer relevant. Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 103 is respectfully requested.

**Byram and Norfleet**

The Examiner has rejected claims 4, 6, 13, 15, 22, 24 and 30 as being unpatentable over Byram in view of Norfleet, because Norfleet discloses an upper and lower crown strap that comprises a resilient (elastic) material.

The limitations added to claims 1, 10, 19 and 28 by the amendments herein are incorporated into these claims. Therefore, the Applicant submits that in view of these added limitations, the rejection is no longer relevant. Favorable consideration and withdrawal of the rejections to these claims under 35 U.S.C. 103 is respectfully requested.

**Byram, Darrow and Cruickshank**

The Examiner has rejected claims 8, 9, 17, 18, 26, 27 and 31 as being unpatentable over Byram in view of Darrow and Cruickshank, because Darrow discloses a transverse element (crown strap) and Cruickshank discloses a transverse element (crown strap) that comprises a resilient (elastic) material.

The limitations added to claims 1, 10, 19 and 28 by the amendments herein are incorporated into these claims. Therefore, the Applicant submits that in view of these added limitations, the rejection is no longer relevant. Favorable consideration and

withdrawal of the rejections to these claims under 35 U.S.C. 103 is respectfully requested.

**Conclusions**

In light of the arguments presented by Applicant herein, the Applicant submits that the claims are in a condition for allowance. Applicant respectfully requests that the Examiner withdraw all rejections with regard to the claims in reliance on one or more of the grounds submitted by the applicant.

Respectfully submitted,



Susan L. Rancourt, Reg. No. 56,016

BENNETT JONES LLP  
4500 Bankers Hall East  
855 - 2<sup>nd</sup> Street SW  
Calgary, Alberta  
CANADA T2P 4K7  
(403) 298-3051

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